

REMARKS/ARGUMENTS

I. PRELIMINARY REMARKS

The present application is directed to a method of using steroidal sapogenins and related compounds for treating cognitive dysfunction such as Alzheimer's disease.

By the Final Office Action dated December 9, 2003:

(a) The amendment filed October 17, 2003 (adding the sentence, "The active agent or agents may, for example, be administered in a food product or beverage.") is objected to under 35 U.S.C. § 132 because it introduces new matter into the disclosure;

(b) Claim 60-62 are rejected under 35 U.S.C. § 112, second paragraph, as failing to comply with the written description requirement;

(c) Claims 33-36, 47 and 58-62 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite;

(d) Claims 37-46 and 48-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Applicant thanks the Examiner for the Office Action, for the guidance provided therein, and for the indication of allowable subject matter. By this Amendment, it is believed that the application is placed in condition for immediate allowance.

This Amendment is being submitted concurrently with a Request for Continued Examination (RCE) and an Information Disclosure Statement, so that the information within the IDS can be considered by the Examiner.

II. AMENDMENTS TO THE SPECIFICATION

A. REFERENCE TO PRIOR APPLICATIONS

Applicant has amended the specification to explicitly refer to the parent application, in accordance with 35 U.S.C. § 120. Applicant notes that the official filing receipt for this application correctly lists the parent application as well as the foreign applications from which priority is claimed. Applicant therefore believes that this amendment to the specification was not necessary; however, Applicant has amended the specification out of an abundance of caution in order to ensure compliance with the statute.

January 23, 2004

B. REFERENCE TO ORAL INGESTION.

In the prior amendment, Applicant added the sentence, "The active agent or agents may, for example, be administered in a food product or beverage." In the Office Action, the Examiner objected that this sentence constituted new matter, and required cancellation of that matter. (Office Action at 2). In response, Applicant has amended the application to delete the sentence previously added.

III. CLAIM REJECTIONS

A. REJECTION OF CLAIMS 33-36, 47, AND 58-62 AS INDEFINITE

Claims 33-36, 47, and 58-62 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the Examiner asserts that the phrase "including" (claim 33) renders the claims indefinite because it is unclear whether the limitation of "a human animal" following the phrase is part of the claimed invention.

In response, Applicant has amended claim 33 to replace the phrase, "an animal, including a human animal" with the phrase -- a human or non-human animal --. Applicant notes that this phraseology is commonly used in allowed patents in this field, including claim 1 of U.S. Patent No. 6,258,386 which is commonly owned, and which was disclosed in the Information Disclosure Statement dated November 5, 2003.

Applicant submits that, after entry of this Amendment, claim 33 is not indefinite, and that the rejection of claim 33 and its dependent claims on grounds of indefiniteness have been overcome. The Amendment is an amendment of form only, and does not touch on the merits.

This amendment to claim 33 does not constitute a narrowing amendment made in order to obtain allowance over the prior art. Rather, the amendment simply represents a change of phraseology, with the substituted phraseology being the phraseology favored by the Patent Office for the subject matter that Applicant always clearly intended to encompass by claim 33.

B. REJECTION OF CLAIMS 60-62 AS UNSUPPORTED

Claims 60-62 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner contends that the

terminology "administered in a food product or beverage" (claims 60-61) and "oral ingestion" (claim 62) was not described or suggested by the specification as originally filed.

In response, Applicant has canceled rejected claims 60-62 in order to moot the rejection that the claims introduces particular (i.e., detailed) subject matter that was not explicitly disclosed in the application.

Applicant believes that the subject matter of claims 60-62 are sufficiently covered by, for example, claims 58-59 which recite broadly that the method is accomplished by administering the active agent as a "medicament." Because the subject matter of the canceled claims are encompassed within the broader claims, the canceling of claims 60-62 does not constitute a surrender of subject matter.

C. REJECTION OF CLAIMS 36 AND 47 AS INDEFINITE

Claims 36 and 47 are rejected on the grounds that the term, "SDAT" has not been defined.

In response, Applicant has amended claims 36 and 47 to replace the term, "SDAT" with its non-abbreviated version --senile dementia of the Alzheimer's type--. The claimed subject matter of "senile dementia of the Alzheimer's type" is supported in this specification at, for example, page 1, lines 10-11, and was explicitly recited in originally presented claim 30. Accordingly, the Amendment introduces no new subject matter and would not necessitate a new search.

D. OBJECTION TO CLAIMS 37-46, AND 57 AS DEPENDENT ON A
REJECTED BASE CLAIM

Claims 37-46, and 48-57 are objected to as being dependent upon a rejected based claim, but would be allowable if rewritten in independent form.

In response, Applicant has amended independent claim 33 from which the objected-to claims depend. Applicant believes that claim 33 is allowable, and that the objections to claims 37-46 and 48-57 have therefore been mooted.

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CONCLUSIONS

In view of the foregoing, it is respectfully urged that all of the claim rejections and objections have been overcome, and that the application is in a condition for allowance. Early notice of allowance is earnestly solicited.

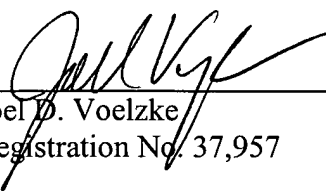
The undersigned attorney can be reached at 310-824-5555 to facilitate prosecution of this application, if necessary.

Respectfully submitted,

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By: _____


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